released by a discharge in bankruptcy, for there is nothing in the Act excepting debts whose existence the debtor has denied from the operation of a discharge. BANKRUPTCY ACT OF 1898, § 17 *a*. There is therefore no basis for the statement in the opinion of the principal case that the Act does not authorize the discharge of disputed claims. Nor can the decision well be supported on the ground of lack of jurisdiction for the adjudication. The actual existence of debts is a fact necessary to found jurisdiction. BANKRUPTCY ACT OF 1898, § 4 *a*. See 3 REMINGTON, BANKRUPTCY, § 41. But the adjudication is based on the petition. See BANKRUPTCY ACT OF 1898, § 18 *g*. That no debts exist does not appear from the petition. Nor do the creditors offer to prove that no debts exist. Furthermore, it is doubtful whether an adjudication even in voluntary proceedings can be attacked on an application for a discharge. *In re Mason*, 99 Fed. 256. But see *In re Wheeler*, 165 Fed. 188.

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — FUTURE CONTINGENT INTEREST IN LIFE INSURANCE POLICY. — An insurance policy provided for payment of a certain sum to the bankrupt's wife on his death but gave him the option to surrender the policy for cash at the end of twenty years, if he was then living. § 70 *a* (5) of the Bankruptcy Act of 1898 provides that "property which . . . [the bankrupt] could by any means have transferred" shall pass to the trustee. *Held*, that the bankrupt's option to surrender the policy is not within this section. *In re Schaefer*, 189 Fed. 187 (Dist. Ct., N. D. Ohio, W. D.).

If, as the court is willing to assume, the insured will have the right to surrender the policy without his wife's consent, this case, in holding the right not assignable, is opposed to all other decisions on such policies. *In re Welling*, 113 Fed. 189; *Matter of Phelps*, 15 Am. B. Rep. 170; *In re Hettling*, 175 Fed. 65. It is supported only by a dissenting opinion. See *In re Welling*, 113 Fed. 189, 195. By its doctrine the policy is apparently regarded as a *res* in which the wife has the vested interest, and the insured a mere inalienable expectancy. But the limitations as to assigning future contingent interests in tangible property are not here involved. Rights under an insurance policy are choses in action. The insurer has contracted that the insured may, if he live twenty years, surrender the policy for cash. The insured thus has a right under an existing contract. The fact that nothing is to be paid under this contract right until a time in the future, and that the payment is subject to a contingency, affects the present value of the right, but cannot affect its assignability. See *In re Coleman*, 136 Fed. 818, 819; *Bassett* v. *Parsons*, 140 Mass. 169, 170, 3 N. E. 547.

BILLS AND NOTES — OVERDUE PAPER — EFFECT OF MATURITY OF SOME OF A SERIES OF NOTES GIVEN IN ONE TRANSACTION. — The defendant gave nine promissory notes in payment for a press, each reciting that it was secured by a certain chattel mortgage of even date. The payee transferred the notes and mortgage to the plaintiff for value after five of the notes were overdue. The defendant interposed a counterclaim for breach of warranty by the payee. *Held*, that this claim is valid against all of the notes. *Rowe* v. *Scott*, 132 N. W. 695 (S. D.).

The effect of maturity on a negotiable instrument is not to make it unassignable at law. The creation by transfer of a new legal title better than that of the transferor is prevented. *Down* v. *Halling*, 4 B. & C. 330; *Northampton National Bank* v. *Kidder*, 106 N. Y. 221. But the transferor's legal title passes, and maturity acts as notice of the equities to which it is subject. See *Fisher* v. *Leland*, 4 Cush. (Mass.) 456. Usually bad faith in the purchaser is essential to such notice. *Murray* v. *Lardner*, 2 Wall. (U. S.) 110. But in the case of a defect in the instrument so apparent as maturity, this requirement is dispensed

with. See *Angle* v. *North-Western Mutual Life Ins. Co.*, 92 U. S. 330, 341. If it is apparent that the notes were given in one transaction for one consideration, the notice given by the overdue notes is as effective for the others as for themselves. *Harrington* v. *Claflin & Co.*, 91 Tex. 294, 42 S. W. 1055; *Old National Bank of Fort Wayne* v. *Marcy*, 79 Ark. 149, 95 S. W. 145. But the fact that all the notes are secured by one mortgage is not in itself enough to make this apparent. *Boss* v. *Hewitt*, 15 Wis. 260; *Bank of Edgefield* v. *Farmers' Co-operative Mfg. Co.*, 52 Fed. 98. The conclusion of the court that the notes disclosed themselves to be parts of the same transaction is perhaps justified by the similar date of all the notes.

CARRIERS — LIENS — RIGHT OF CARRIER TO HOLD DAMAGED GOODS FOR NON-PAYMENT OF FREIGHT. — Goods were damaged in transit through the fault of the carrier to an amount greater than the freight charges. The carrier refused to deliver them unless the usual freight charges were paid. The consignee, who was also consignor, then sued the carrier *ex contractu* for the value of the goods. *Held*, that he cannot recover. *Wilensky* v. *Central of Georgia Ry. Co.*, 72 S. E. 418 (Ga., Sup. Ct.).

Because of a liberal procedure, the weight of American authority allows the consignee to defend a suit for freight by showing that the damage to the goods through the fault of the carrier equals or exceeds the charges. *Leech* v. *Baldwin*, 5 Watts (Pa.) 446. *Contra*, *Shields* v. *Davis*, 6 Taunt. 65. Moreover, the consignee may bring replevin or trover when the carrier refuses, on the ground of non-payment of freight, to deliver goods so damaged. *Moran Brothers Co.* v. *Northern Pacific R. Co.*, 19 Wash. 266, 53 Pac. 49, 1101; *Missouri Pacific Ry. Co.* v. *Peru-Van Zandt Implement Co.*, 73 Kan. 295, 85 Pac. 408, 87 Pac. 80. See 20 HARV. L. REV. 146. When the amount of damage does not equal the freight charges, the carrier has a lien for the balance only. *Bancroft* v. *Peters*, 4 Mich. 619. The reasoning is that if the carrier is liable for damage equal to the freight, there is no debt; and where there is no debt there is no lien. *Ewart* v. *Kerr*, 1 Rice (S. C.) 203. But the principal case is an action *ex contractu*. The carrier has undertaken, to the plaintiff as consignor, to transport and deliver the goods, on payment of proper charges, to the consignee. Unless he permits the consignee to take them without advancing illegal claims, the undertaking is not fulfilled. It is submitted that for this breach the carrier should be liable in contract for the damage actually incurred.

CARRIERS — LOSS OR INJURY TO GOODS — RESPONSIBILITY OF CARRIER FOR ANIMALS IN PENS UNDER STATUTORY REQUIREMENT. — A federal statute provided that on an interstate shipment no railroad should confine animals in cars longer than twenty-eight consecutive hours, without removing them for five hours into properly equipped pens for rest, water, and feeding, unless prevented by storm or other unavoidable causes. The plaintiff's sheep, while in the defendant carrier's stockyards, in transit, were killed. *Held*, that the defendant is not liable in the absence of negligence. *Beckman* v. *Southern Pacific Co.*, 118 Pac. 118 (Utah).

The law is settled that the transportation of animals is common carriage. *Swiney* v. *American Express Co.*, 115 N. W. 212 (Ia.). The carrier is bound to feed and care for the animals in transit. *Toledo, Wabash & Western Ry. Co.* v. *Hamilton*, 76 Ill. 393. While they are being carried, and until the undertaking is completed, he is an insurer, although the animals are in stockyards or pens. *Texas & Pacific Ry. Co.* v. *Turner*, 37 S. W. 643 (Tex.). See *Nelson* v. *Chicago, etc. Ry. Co.*, 78 Neb. 57, 59, 110 N. W. 741, 742. The ground of the decision in the principal case can be supported only on the reasoning that the statute relieves the carrier of his common-law liability while the cattle are in the pens. But the statute merely requires unloading at stated intervals, unless